

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2486 OF 2003
IN
SUIT NO.3328 OF 1989

Siddiqua	d/o	Sayed	Mustafa	Sayed
Murtuza Mirai & Anr.				..Plaintiffs
V/s.				
Sakinabai wd/o	Sayed	Mustafa	Sayed & Ors.	..Defendants
And				
Ashok Tukaram Velhal				..Applicant
And				
The Court Receiver,	High Court,	Bombay		..Respondent

Mr.Bharat Vaishnava i/b M/s.N.N. Vaishnava for the Plaintiff.
Mr.A.J. Almeida for the Applicant in support of the Notice of Motion.

CORAM : S.J. VAZIFDAR, J.
DATED : 17TH NOVEMBER, 2005.

P.C. :

1. This is a partition suit. Two Plaintiffs and Defendant No.3 are the daughters and Defendant No.2 is the son of the deceased, one Sayed Mustafa. The original Defendant No.1 was the widow of the deceased. The present Notice of Motion has been taken out by the Applicant for transferring the rent receipt in respect of the premises situated in the building owned by the deceased.

2. The Notice of Motion is not maintainable.

The Applicant has nothing whatsoever to do with the present suit. If he desires that the rent receipt be transferred in his name, it is for him to adopt proceedings in accordance with law.

3. Mr.Almeida, the learned counsel appearing on behalf of the Applicant states that the only reason why the Applicant is entitled to take out the Notice of Motion is because the Court Receiver has been appointed in respect of the property. That cannot be a ground to establish the maintainability of this Notice of Motion. It is for the Applicant in appropriate proceedings to make the Court Receiver a party by obtaining leave of this Court.

4. In the circumstances, the Notice of Motion is dismissed. The Applicant shall pay the costs of this Notice of Motion fixed at Rs.1000/- to each of the Plaintiffs and the Defendants within four weeks from today.